

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD JOSHUA SMITH,

Plaintiff,

v.

CHAUDHRY UZMA, *et al.*,

Defendants.

Case No. 2:24-cv-0683-TLN-JDP (P)

ORDER

Plaintiff, a state prisoner, brings this action alleging that defendants violated his Eighth Amendment rights by failing to provide him with adequate medical care. I found that his first complaint failed to state a cognizable claim because it did not allege that defendants acted with deliberate indifference. ECF No. 7. He has filed an amended complaint, ECF No. 10, that, for screening purposes, states cognizable Eighth Amendment medical care claims against defendants Uzma and Gill. It fails, however, to state a cognizable claim against Warden Gena Jones. Plaintiff may either proceed only with the claims deemed viable or delay service and file another amended complaint.

## Screening Order

### I. Screening and Pleading Requirements

A federal court must screen a prisoner's complaint that seeks relief against a governmental entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

A complaint must contain a short and plain statement that plaintiff is entitled to relief, Fed. R. Civ. P. 8(a)(2), and provide "enough facts to state a claim to relief that is plausible on its face," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). If the allegations "do not permit the court to infer more than the mere possibility of misconduct," the complaint states no claim. *Id.* at 679. The complaint need not identify "a precise legal theory." *Kobold v. Good Samaritan Reg'l Med. Ctr.*, 832 F.3d 1024, 1038 (9th Cir. 2016). Instead, what plaintiff must state is a "claim"—a set of "allegations that give rise to an enforceable right to relief." *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc) (citations omitted).

The court must construe a pro se litigant's complaint liberally. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant's complaint "if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017). However, "'a liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not initially pled.'" *Bruns v. Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

### II. Analysis

Plaintiff alleges that defendants Uzma and Gill have focused on pursuing unsuccessful cancer treatments rather than addressing his other health issues. ECF No. 10 at 3-4, 7-8. He claims that defendant Gena Jones, the warden of the California Health Care Facility, is also liable

1 because she is responsible for all prison operations, including inmates' medical care. *Id.* at 5-6.  
2 Plaintiff's allegations against Uzma and Gill are suitable to proceed; his allegations against Jones  
3 are not.

4 Plaintiff claims that defendant Uzma violated his rights by following a course of treatment  
5 that has been unsuccessful in treating his cancer. *Id.* at 3. The specifics are difficult to follow,  
6 but plaintiff appears to allege that Uzma focused on failed cancer treatments to the exclusion of  
7 treating his Hepatitis-C and certain abdominal issues. *Id.* at 4. Similarly, he alleges that  
8 defendant Gill insisted that he undergo a third unsuccessful liver cancer treatment rather than  
9 treating his "abdomen disease" and Hepatitis-C. *Id.* at 7-8. Though plaintiff's allegations are  
10 roughly articulated, these allegations are sufficient at this stage to proceed.

11 By contrast, plaintiff's claims against Warden Jones are nonviable. He alleges that, as  
12 warden, she is responsible for safeguarding inmates' rights, including healthcare. *Id.* at 5. There  
13 is no *respondeat superior* liability under section 1983, however. *Taylor v. List*, 880 F.2d 1040,  
14 1045 (9th Cir. 1989). Instead, Warden Jones can be held liable only for her own personal  
15 involvement, and plaintiff has not alleged that she was directly involved in or aware of his  
16 medical treatment.

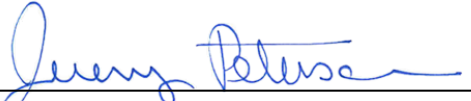
17 Accordingly, it is ORDERED that:

18 1. Within thirty days from the service of this order, plaintiff must file a written indication  
19 of his intent to pursue only with the viable claims described in this order, OR file another  
20 amended complaint. If he selects the latter, no defendants will be served until the new complaint  
21 is screened.

22 2. The Clerk of Court is directed to send plaintiff a section 1983 complaint form with this  
23 order.

24 IT IS SO ORDERED.

25 Dated: November 13, 2024

26   
27 JEREMY D. PETERSON  
28 UNITED STATES MAGISTRATE JUDGE